

**General Assembly**

Distr.: General
3 December 2004
English
Original: Spanish

Fifty-ninth session
Agenda item 103

Elimination of racism and racial discrimination**Report of the Third Committee**

Rapporteur: Mr. Carlos Enrique **García González** (El Salvador)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled:

“Elimination of racism and racial discrimination:

“(a) Elimination of racism and racial discrimination;

“(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action”

and to allocate it to the Third Committee.

2. The Committee held a general discussion on agenda item 103 jointly with item 104 at its 35th, 36th and 38th meetings, on 3, 4 and 8 November, and considered proposals and took action on item 103 at its 43rd, 44th, 46th and 51st to 53rd meetings, on 15, 16, 18, 23 and 24 November 2004. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/59/SR.35, 36, 38, 43, 44, 46 and 51-53).

3. For its consideration of the item, the Committee had before it the following documents:

Item 103**Elimination of racism and racial discrimination**

Letter dated 1 October 2004 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General, transmitting the final communiqué of the annual coordination meeting of Ministers for Foreign Affairs of



the States members of the Organization of the Islamic Conference (A/59/425-S/2004/808)

Letter dated 27 October 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Secretary-General (A/C.3/59/4)

Item 103 (a)

Elimination of racism and racial discrimination

Report of the Committee on the Elimination of Racial Discrimination on its sixty-fourth and sixty-fifth sessions¹

Report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination (A/59/275)

Report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination (A/59/276)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/329)

Note by the Secretary-General transmitting the study of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/59/330)

Letter dated 27 October 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Secretary-General (A/C.3/59/4)

Item 103 (b)

Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/59/375)

4. At the 35th meeting, on 3 November, the Director of the New York Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/59/SR.35).

5. At the same meeting, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance made an introductory statement under sub-item (a). The Committee engaged in a question-and-answer session with the Special Rapporteur, in which the representatives of Switzerland, the Netherlands (on behalf of the European Union), Norway, the Russian Federation, Egypt, Cuba, Indonesia, Venezuela, Canada and Guatemala took part (ibid.).

¹ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 18 (A/59/18).*

II. Consideration of proposals

A. Draft resolution A/C.3/59/L.67/Rev.1

6. At the 51st meeting, on 23 November, the representative of Belarus, on behalf of Azerbaijan, Belarus, Cuba, Kazakhstan, Kyrgyzstan, the Russian Federation and Tajikistan, introduced a draft resolution (A/C.3/59/L.67/Rev.1) entitled "Measures to be taken against political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism", and orally revised operative paragraph 4 by deleting the words "with appreciation" after the words "Takes note".

7. At the 52nd meeting, on 23 November, the Committee adopted draft resolution A/C.3/59/L.67/Rev.1, as orally revised, without a vote (see para. 23, draft resolution I).

8. Before the adoption of the draft resolution, statements were made by the representatives of Belarus and the United States of America (see A/C.3/59/SR.52).

B. Draft resolution A/C.3/59/L.69

9. At the 43rd meeting, on 15 November, the representative of Belgium, on behalf of Argentina, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Panama, Poland, Portugal, the Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution (A/C.3/59/L.69) entitled "International Convention on the Elimination of All Forms of Racial Discrimination". Subsequently, Armenia, Burkina Faso, Chile, Guatemala, the Republic of Korea, Namibia, Rwanda, South Africa and Turkey joined in sponsoring the draft resolution.

10. At the 46th meeting, on 18 November, the Secretary read out a statement regarding financial provisions relating to the draft resolution (see A/C.3/59/SR.46).

11. At the same meeting, the representative of Slovenia made a statement (*ibid.*) and orally revised the draft resolution as follows:

(a) In operative paragraph 6, the words "with other special procedures of the Commission on Human Rights" were deleted before the words "and with intergovernmental organizations";

(b) At the beginning of operative paragraph 8, the words "*Expresses its appreciation* to the Committee for its contributions to the implementation of" were replaced by the words "*Notes with appreciation* the engagement of the Committee in the follow-up to";

(c) In operative paragraph 21, the words "or otherwise contrary to international treaty law" were deleted before the words "to review their

reservations", and the words "or that are otherwise incompatible with international treaty law" were deleted at the end of the paragraph.

12. Albania, Andorra, Azerbaijan, Bangladesh, Belarus, China, El Salvador, Iceland, Pakistan, Senegal, Thailand, Ukraine and the Bolivarian Republic of Venezuela joined in sponsoring the draft resolution, as orally revised, and Burkina Faso withdrew its sponsorship.

13. Also at the 46th meeting, the Committee adopted draft resolution A/C.3/59/L.69, as orally revised, without a vote (see para. 23, draft resolution II).

14. After the adoption of the draft resolution, the representative of the United States of America made a statement (ibid.).

C. Draft resolution A/C.3/59/L.71

15. At the 44th meeting, on 16 November, the representative of Qatar, on behalf of the States Members of the United Nations that are members of the Group of 77 and China, introduced a draft resolution (A/C.3/59/L.71) entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action", which read:

"The General Assembly,

"Recalling its resolution 58/160 of 22 December 2003, by which it decided to place emphasis on the concrete implementation of the Durban Declaration and Programme of Action, adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001 as a solid foundation for a broad-based consensus for further actions and initiatives towards the total elimination of the scourge of racism,

"Recalling also its resolution 57/195 of 18 December 2002, by which it outlined the important roles and responsibilities of the various organs of the United Nations and other stakeholders at the international, regional and national levels, including, in particular, the Commission on Human Rights,

"Recalling further its resolution 56/266 of 27 March 2002, in which it endorsed the Durban Declaration and Programme of Action as constituting a solid foundation for further action and initiatives towards the total elimination of the scourge of racism,

"Endorsing Commission on Human Rights resolutions 2002/68 of 25 April 2002, 2003/30 of 23 April 2003 and 2004/88 of 22 April 2004, by which the international community put into effect mechanisms for the effective implementation of the Durban Declaration and Programme of Action,

"Reaffirming its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance,

"Reaffirming also that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination are of paramount importance for the promotion of equality and non-discrimination in the world,

"Underlining the primacy of political will, international cooperation and adequate funding at the national, regional and international levels for the successful implementation of the Durban Programme of Action,

"Deploring the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia, as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

"Underlining that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

"Welcoming all the regional initiatives being undertaken to implement the Durban commitments, and in this context expressing its appreciation to the Governments of Mexico, Kenya, the Czech Republic and Belgium for hosting the regional expert seminars with a view to the implementation of the Durban Declaration and Programme of Action within their respective regions, and encouraging the remaining region to take the necessary action in this regard,

"Welcoming also the determination by the United Nations High Commissioner for Human Rights to profile and increase the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance and her intention to make this a cross-cutting issue in the activities and programmes of her Office,

"I. Basic general principles

"1. Acknowledges that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;

"2. Stresses that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

"3. Emphasizes that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing to prevent those crimes from going unpunished and to ensure the rule of law;

"4. Urges all States to review and, where necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

"5. Condemns the misuse of the Internet to incite violence motivated by racial hatred, and calls upon States to take all necessary measures to combat

this form of racism in accordance with the commitments undertaken under the Durban Declaration and Programme of Action, in particular paragraph 147 of the Programme of Action;

"6. *Encourages* all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for foreign cultures, peoples and countries;

"7. *Stresses* the responsibility of States to mainstream a gender perspective in the design and development of prevention, education and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

"8. *Expresses its concern* at the increasing incidents of racism in various sporting events;

"II. International Convention on the Elimination of All Forms of Racial Discrimination

"9. *Endorses* the concern expressed by the Commission on Human Rights in its resolution 2004/88 to the effect that at the current pace, with 169 ratifications and only 45 declarations, the deadline of 2005 for the universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination, decided by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, will, regrettably, not be realized;

"10. *Urges*, in that context, the Office of the United Nations High Commissioner for Human Rights to issue regular publications indicating the countries that have undertaken serious steps to comply with that important commitment by the World Conference;

"11. *Invites* States parties to the Convention to ratify the amendment to article 8 of the Convention, on the financing of the Committee on the Elimination of Racial Discrimination, and calls for adequate additional resources from the United Nations regular budget to enable the Committee to discharge its mandate fully;

"12. *Urges* all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights and article 5 of the Convention;

"13. *Notes* that the Committee on the Elimination of Racial Discrimination holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

"14. *Welcomes* the emphasis placed by the Committee on the Elimination of Racial Discrimination on the importance of follow-up to the World Conference and the measures recommended to strengthen the implementation of the Convention as well as the functioning of the Committee;

"III. Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

"15. *Expresses general satisfaction* with the implementation of the commitments undertaken in the Durban Declaration and Programme of Action through the two working groups established for this purpose by the Commission on Human Rights in its resolutions 2002/68 of 25 April 2002, 2003/30 of 23 April 2003 and 2004/88 of 22 April 2004;

"16. *Underlines*, in that context, the importance of continuing the work of those working groups and the need for regular progress reports to the General Assembly and the Commission on Human Rights at their annual sessions;

"17. *Underlines further* the importance of the elaboration of complementary standards with a view to strengthening and updating international instruments against racism, racial discrimination, xenophobia and related intolerance, including an additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination, focusing on issues discussed during the previous sessions of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, as well as issues identified by the high-level seminar to be convened during the next session of the Working Group;

"18. *Decides*, in that context, to request the Office of the United Nations High Commissioner for Human Rights, in consultation with Member States, to convene a high-level seminar during the first three days of the fourth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, inviting members of the Committee on the Elimination of Racial Discrimination, to produce a conclusive list of the areas where gaps exist and for which complementary standards are necessary, as well as to present concrete proposals on the structure and format of the proposed additional protocol to the International Convention on the Elimination of All Forms of Racial Discrimination;

"19. *Decides also* that the programme, structure and format of the high-level seminar should be mutually agreed among Member States, assisted by the Office of the United Nations High Commissioner for Human Rights, which could include, but would not necessarily be limited to, inviting a core group of ministers responsible for human rights from all regions as panellists to share their views on the desirability of complementary standards;

"20. *Decides further* that no intersessional meetings of the working groups of the Commission on Human Rights in follow-up to the World Conference and the implementation of the Durban Declaration and Programme of Action shall be scheduled in a manner that clashes or overlaps with the sessions of the General Assembly;

"21. *Requests* the Secretary-General to present a report on the outcome of the high-level seminar to the General Assembly at its sixtieth session;

"22. *Acknowledges* that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South

Africa, from 31 August to 8 September 2001, was significantly different from the previous two such conferences, as evidenced by the inclusion in its title of two important components relating to contemporary forms of racism, namely, xenophobia and related intolerance, a development pointing to the existence of gaps for which complementary standards are necessary;

"23. *Acknowledges further* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference, and to this end emphasizes the central role to be played by the group of independent eminent experts in mobilizing the necessary political will required for the successful implementation of the Durban Declaration and Programme of Action;

"24. *Requests* the Secretary-General to provide the necessary resources for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action;

"25. *Condemns* the resurgence of xenophobia, and draws attention to the fact that, while anchoring human rights in legal instruments is a fundamental way of expressing their universality, these instruments are no longer capable of addressing recent events and developments, especially new forms of discrimination targeting specific populations, religions, cultures or ethnic groups;

"26. *Condemns also* the increased racism in sports, and calls on international sports entities to take appropriate measures to eradicate it and, to that end, cooperate with the relevant human rights mechanisms, in particular the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance;

"27. *Calls upon* Member States to adopt measures to counter the dissemination of discriminatory, racist and xenophobic messages on the Internet, in accordance with paragraphs 144 to 147 of the Durban Programme of Action;

"28. *Requests*, in that context, the Office of the United Nations High Commissioner for Human Rights to convene the second meeting of the group of independent eminent experts before the sixty-first session of the Commission on Human Rights to determine a concrete programme of action for the experts, based on the core values for racial equality and dignity as elaborated in the outcome document of their first meeting, held from 16 to 18 September 2003, and that the programme of action entail, inter alia, the following:

"(a) A calendar of planned visits to heads of State or Government in all regions with a view to deepening the dialogue and enhancing political will on the global drive for the total elimination of racism, as well as securing tangible

commitments for the funding of anti-racism programmes within the Office of the United Nations High Commissioner for Human Rights;

"(b) The initiation of a dialogue with all Governments with the aim of introducing national forums against racism as national frameworks within which all stakeholders and victims can constructively engage and develop strategies for eliminating racism, racial discrimination, xenophobia and related intolerance;

"IV. Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits

"29. *Expresses its full support and appreciation* for the work of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and encourages its continuation;

"30. *Reiterates its call* to all Member States, intergovernmental organizations, relevant organizations of the United Nations and non-governmental organizations to cooperate fully with the Special Rapporteur;

"31. *Requests* the Special Rapporteur to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to further enhance their effectiveness and mutual cooperation;

"32. *Recognizes with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of people of Asian descent and other communities;

"33. *Requests* the Special Rapporteur to collect information from all concerned, to respond effectively to reliable information that becomes available to him, to follow up on communications and country visits and to seek the views and comments of Governments and reflect them, as appropriate, in his reports;

"34. *Calls upon* States to cooperate with the Special Rapporteur and to give serious consideration to his requests to visit their countries so as to enable him to fulfil his mandate fully and effectively;

"35. *Encourages* closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit;

"36. *Urges* the United Nations High Commissioner for Human Rights to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

"37. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate

efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its sixtieth session;

"38. *Takes note* of the recommendations contained in the interim report of the Special Rapporteur, and encourages the continuation of his work;

"39. *Urges* Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur, and invites other relevant stakeholders to implement those recommendations;

"40. *Calls upon* the Special Rapporteur, in carrying out his mandate, to pay special attention to the increasing frequency of incidents of racism at various sporting events;

"V. General

"41. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its sixtieth session;

"42. *Decides* to remain seized of this important matter under the item entitled "Elimination of racism and racial discrimination" at its sixtieth session".

16. At the 52nd meeting, on 23 November, the representative of Qatar made a statement with regard to the draft resolution (see A/C.3/59/SR.52).

17. At the same meeting, the Secretary read out a statement regarding financial provisions relating to the draft resolution (*ibid.*).

18. At the 53rd meeting, on 24 November, following a statement by the representative of Qatar (see A/C.3/59/SR.53), the representative of South Africa orally revised the draft resolution on behalf of the sponsors. A text of the draft resolution, as orally revised, was circulated in an informal paper.

19. At the same meeting, the Secretary made a statement regarding financial provisions relating to the draft resolution, as orally revised (*ibid.*).

20. Also at the 53rd meeting, the Committee adopted draft resolution A/C.3/59/L.71, as orally revised, by a recorded vote of 175 to 2, with 2 abstentions (see para. 23, draft resolution III). The voting was as follows:

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia,

Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Australia, Canada.

21. After the adoption of the draft resolution, statements were made by the representatives of Norway (also on behalf of New Zealand) and Israel. The representative of France also made a statement (see A/C.3/59/SR.53).

D. Draft decision proposed by the Chairman

22. At its 53rd meeting, on 24 November, on the proposal of the Chairman, the Committee decided to recommend to the General Assembly that it take note of the report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (A/59/375) (see para. 24).

III. Recommendations of the Third Committee

23. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Measures to be taken against political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism

The General Assembly,

Recalling that the United Nations emerged from the struggle against Nazism, fascism, aggression and foreign occupation, and that the people expressed their resolve in the Charter of the United Nations to save succeeding generations from the scourge of war,

Aware of the determination proclaimed by the peoples of the world in the Charter to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Recognizing the fact that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001, condemned political platforms and organizations based on racism, xenophobia or doctrines of racial superiority and related discrimination, as well as legislation and practices based on racism, racial discrimination, xenophobia and related intolerance, as incompatible with democracy and transparent and accountable governance,

Reaffirming in this regard that everyone has the right to freedom of opinion and expression as well as the right to freedom of peaceful assembly and association,

Underlining the key role that politicians and political parties can and ought to play in combating racism, racial discrimination, xenophobia and related intolerance,

Noting with regret that, in the contemporary world, there continue to exist various manifestations of neo-Nazi activities, as well as other political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, which entail contempt for the individual or a denial of the intrinsic dignity and equality of all human beings and of equality of opportunity in the civil, political, economic and social and cultural spheres and in social justice,

Deeply alarmed at the persistence and resurgence of these phenomena, and stating that they can never be justified in any instance or under any circumstances,

Noting with concern the widening misuse by such groups and organizations of the opportunities provided by scientific and technological progress, including the

Internet, to promote racist and xenophobic propaganda aimed at inciting racial hatred and to collect funds to sustain violent campaigns against multi-ethnic societies throughout the world,

Noting that the use of such technologies can also contribute to combating racism, racial discrimination, xenophobia and related intolerance,

Expressing serious concern at the persistence in many parts of the world of doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia,

Particularly alarmed at the persistence of such ideas in political circles, in the sphere of public opinion and in society at large,

Recognizing the important role relevant regional bodies, including regional associations of national human rights institutions, can play in combating racism, racial discrimination, xenophobia and related intolerance, and the key role they can play in monitoring and raising awareness about intolerance and discrimination at the regional level, and reaffirming support for such bodies where they exist, and encouraging their establishment,

Recalling its previous resolutions, in particular resolutions 55/82 of 4 December 2000 and 56/268 of 27 March 2002,

Taking into consideration the report of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to the Commission on Human Rights¹ and, in particular, his study on the question of political platforms which promote or incite racial discrimination,²

1. *Remains* convinced that political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism, must be condemned as incompatible with democracy and accountable governance;

2. *Expresses its determination* to resist such political platforms and activities which can undermine the enjoyment of human rights and fundamental freedoms and of equality of opportunity;

3. *Urges* States to take all available measures in accordance with their obligations under international human rights instruments to combat political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, inter alia, through the dissemination of human rights principles at all levels of society through education, as well as by other means;

4. *Takes note* of the recommendations of the Special Rapporteur, including on the need for States to exercise greater control over racist and xenophobic statements, especially when they are expressed by representatives of political parties or other ideological movements, and emphasizes in this regard that measures taken to combat racism must be in accordance with the commitments they have

¹ E/CN.4/2001/21 and Corr.1.

² See A/59/330.

undertaken under the Durban Declaration and Programme of Action³ and with international standards of freedom of expression;

5. *Calls upon* States to undertake and facilitate activities aimed at educating young people in human rights and democratic citizenship and instilling values of solidarity, respect and appreciation of diversity, including respect for different groups, and affirms that a special effort to inform and sensitize young people with regard to democratic values and human rights should be undertaken or developed to fight against ideologies based on the fallacious theory of racial superiority;

6. *Urges* all States to consider the adoption, as a matter of high priority, of appropriate measures, consistent with their national legal systems and in accordance with the provisions of the Universal Declaration of Human Rights,⁴ the International Covenants on Human Rights⁵ and the International Convention on the Elimination of All Forms of Racial Discrimination,⁶ to eradicate activities that lead to violence based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism, and to condemn all propaganda and all organizations which are based on ideas and theories of superiority;

7. *Expresses support* for the activities of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and calls upon all States to cooperate with him in all aspects with a view to enabling him to fulfil his mandate;

8. *Requests* the Secretary-General to bring the present resolution to the attention of the Member States and relevant human rights bodies and mechanisms of the United Nations system.

³ See A/CONF.189/12 and Corr.1, chap. I.

⁴ Resolution 217 A (III).

⁵ Resolution 2200 A (XXI), annex.

⁶ Resolution 2106 A (XX), annex.

Draft resolution II

International Convention on the Elimination of All Forms of Racial Discrimination

The General Assembly,

Recalling its previous resolutions on the International Convention on the Elimination of All Forms of Racial Discrimination,¹ most recently resolution 57/194 of 18 December 2002,

Bearing in mind the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,² in particular section II.B of the Declaration, relating to equality, dignity and tolerance,

Reiterating the need to intensify the struggle to eliminate all forms of racism, racial discrimination, xenophobia and related intolerance throughout the world,

Reiterating also the importance of the Convention, which is one of the most widely accepted human rights instruments adopted under the auspices of the United Nations,

Reaffirming that universal adherence to and full implementation of the Convention are of paramount importance for promoting equality and non-discrimination in the world, as stated in the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,³

Mindful of the importance of the contributions of the Committee on the Elimination of Racial Discrimination to the effective implementation of the Convention and to the efforts of the United Nations to combat racism, racial discrimination, xenophobia and related intolerance,

Emphasizing the obligation of all States parties to the Convention to take legislative, judicial and other measures in order to secure full implementation of the provisions of the Convention,

Recalling its resolution 47/111 of 16 December 1992, in which it welcomed the decision, taken on 15 January 1992 by the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination,⁴ to amend paragraph 6 of article 8 of the Convention and to add a new paragraph, as paragraph 7 of article 8, with a view to providing for the financing of the Committee from the regular budget of the United Nations, and to reiterating its deep concern that the amendment to the Convention has not yet entered into force,

Stressing the importance of enabling the Committee to function smoothly and to have all necessary facilities for the effective performance of its functions under the Convention,

¹ Resolution 2106 A (XX), annex.

² A/CONF.157/24 (Part I), chap. III.

³ See A/CONF.189/12 and Corr.1, chap. I.

⁴ See CERD/SP/45, annex.

I. Reports of the Committee on the Elimination of Racial Discrimination

1. *Takes note* of the reports of the Committee on the Elimination of Racial Discrimination on its sixty-second and sixty-third⁵ and its sixty-fourth and sixty-fifth⁶ sessions;
2. *Commends* the Committee for its contributions to the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination,¹ especially through the examination of reports under article 9 of the Convention, action on communications under article 14 of the Convention and thematic discussions, which contribute to the prevention and elimination of racism, racial discrimination, xenophobia and related intolerance;
3. *Calls upon* States parties to fulfil their obligation, under paragraph 1 of article 9 of the Convention, to submit their periodic reports on measures taken to implement the Convention in due time;
4. *Expresses its concern* at the fact that a great number of reports are overdue and continue to be overdue, in particular initial reports, which constitutes an obstacle to the full implementation of the Convention;
5. *Encourages* States parties to the Convention whose reports are seriously overdue to avail themselves of the advisory services and technical assistance that the Office of the United Nations High Commissioner for Human Rights can provide, upon their request, for the preparation of the reports;
6. *Encourages* the Committee to continue to cooperate and exchange information with United Nations bodies and mechanisms, in particular with the Subcommission on the Promotion and Protection of Human Rights and with the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and with intergovernmental organizations, as well as with non-governmental organizations;
7. *Encourages* States parties to continue to include a gender perspective in their reports to the Committee, and invites the Committee to take into account a gender perspective in the implementation of its mandate;
8. *Notes with appreciation* the engagement of the Committee in the follow-up to the Durban Declaration and Programme of Action;³
9. *Expresses its appreciation* for the efforts made so far by the Committee to improve the efficiency of its working methods, and encourages the Committee to continue its activities in this regard;
10. *Encourages* the continued participation of members of the Committee in the annual inter-committee meetings and meetings of chairpersons of the human rights treaty bodies, especially with a view to a more coordinated approach to the activities of the treaty body system and standardized reporting;

⁵ Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 18 (A/58/18).

⁶ Ibid., Fifty-ninth Session, Supplement No. 18 (A/59/18).

II. Financial situation of the Committee on the Elimination of Racial Discrimination

11. *Takes note* of the report of the Secretary-General on the financial situation of the Committee on the Elimination of Racial Discrimination;⁷

12. *Expresses its profound concern* about the fact that a number of States parties to the International Convention on the Elimination of All Forms of Racial Discrimination have still not fulfilled their financial obligations, as shown in the report of the Secretary-General, and strongly appeals to all States parties that are in arrears to fulfil their outstanding financial obligations under article 8, paragraph 6, of the Convention;

13. *Strongly urges* States parties to the Convention to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment, as decided upon at the Fourteenth Meeting of States Parties to the International Convention on the Elimination of All Forms of Racial Discrimination on 15 January 1992,⁴ endorsed by the General Assembly in its resolution 47/111 and further reiterated at the Sixteenth Meeting of States Parties on 16 January 1996;

14. *Requests* the Secretary-General to continue to ensure adequate financial arrangements and to provide the necessary support, including an adequate level of Secretariat assistance, in order to ensure the functioning of the Committee and to enable it to cope with its increasing amount of work;

15. *Also requests* the Secretary-General to invite those States parties to the Convention that are in arrears to pay the amounts in arrears, and to report thereon to the General Assembly at its sixty-first session;

III. Status of the International Convention on the Elimination of All Forms of Racial Discrimination

16. *Takes note* of the report of the Secretary-General on the status of the International Convention on the Elimination of All Forms of Racial Discrimination;⁸

17. *Expresses its satisfaction* at the number of States that have ratified or acceded to the Convention, which now stands at one hundred and seventy;

18. *Urges* States parties to comply fully with their obligations under the Convention and to take into consideration the concluding observations and general recommendations of the Committee;

19. *Reaffirms its conviction* that ratification of or accession to the Convention on a universal basis and the implementation of its provisions are necessary for the effectiveness of the fight against racism, racial discrimination, xenophobia and intolerance and for the implementation of the commitments undertaken under the Durban Declaration and Programme of Action;

⁷ A/59/276.

⁸ A/59/275.

20. *Urges* all States that have not yet become parties to the Convention to ratify or accede to it as a matter of urgency, with a view to universal ratification by 2005;

21. *Urges* States to limit the extent of any reservation they lodge to the Convention and to formulate any reservation as precisely and as narrowly as possible in order to ensure that no reservation is incompatible with the object and purpose of the Convention, to review their reservations on a regular basis with a view to withdrawing them, and to withdraw reservations that are contrary to the object and purpose of the Convention;

22. *Notes* that the number of States parties to the Convention that have made the declaration provided for in article 14 of the Convention now stands at forty-five, and requests the States parties that have not yet done so to consider making that declaration;

23. *Decides* to consider, at its sixty-first session, under the item entitled "Elimination of racism and racial discrimination", the reports of the Committee on the Elimination of Racial Discrimination on its sixty-sixth and sixty-seventh and its sixty-eighth and sixty-ninth sessions, the report of the Secretary-General on the financial situation of the Committee and the report of the Secretary-General on the status of the Convention.

Draft resolution III
Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

The General Assembly,

Recalling its resolution 58/160 of 22 December 2003, by which it decided to place emphasis on the concrete implementation of the Durban Declaration and Programme of Action, adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held at Durban, South Africa, from 31 August to 8 September 2001,¹ as a solid foundation for a broad-based consensus for further actions and initiatives towards the total elimination of the scourge of racism,

Recalling also its resolution 57/195 of 18 December 2002, by which it outlined the important roles and responsibilities of the various organs of the United Nations and other stakeholders at the international, regional and national levels, including, in particular, the Commission on Human Rights,

Recalling further its resolution 56/266 of 27 March 2002, in which it endorsed the Durban Declaration and Programme of Action as constituting a solid foundation for further action and initiatives towards the total elimination of the scourge of racism,

Reiterating that all human beings are born free and equal in dignity and rights and have the potential to contribute constructively to the development and well-being of their societies, and that any doctrine of racial superiority is scientifically false, morally condemnable, socially unjust and dangerous and must be rejected, together with theories that attempt to determine the existence of separate human races,

Convinced that racism, racial discrimination, xenophobia and related intolerance manifest themselves in a differentiated manner for women and girls and may be among the factors leading to a deterioration in their living conditions, poverty, violence, multiple forms of discrimination and the limitation or denial of their human rights, and recognizing the need to integrate a gender perspective into relevant policies, strategies and programmes of action against racism, racial discrimination, xenophobia and related intolerance in order to address multiple forms of discrimination,

Taking note of Commission on Human Rights resolutions 2002/68 of 25 April 2002,² 2003/30 of 23 April 2003³ and 2004/88 of 22 April 2004,⁴ by which the international community put into effect mechanisms for the effective implementation of the Durban Declaration and Programme of Action,

¹ See A/CONF.189/12 and Corr.1, chap. I.

² See *Official Records of the Economic and Social Council, Supplement No. 3 (E/2002/23)*, chap. II, sect. A.

³ *Ibid.*, 2003, *Supplement No. 3 (E/2003/23)*, chap. II, sect. A.

⁴ *Ibid.*, 2004, *Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

Reaffirming its commitment to a global drive for the total elimination of racism, racial discrimination, xenophobia and related intolerance,

Reaffirming also that universal adherence to and full implementation of the International Convention on the Elimination of All Forms of Racial Discrimination⁵ are of paramount importance for the promotion of equality and non-discrimination in the world,

Underlining the primacy of political will, international cooperation and adequate funding at the national, regional and international levels for the successful implementation of the Durban Programme of Action,

Alarmed at the increase in racist violence and xenophobic ideas in many parts of the world, in political circles, in the sphere of public opinion and in society at large, inter alia, as a result of the resurgent activities of associations established on the basis of racist and xenophobic platforms and charters, and the persistent use of those platforms and charters to promote or incite racist ideologies,

Underlining the importance of urgently eliminating continuing and violent trends involving racism and racial discrimination, and conscious that any form of impunity for crimes motivated by racist and xenophobic attitudes plays a role in weakening the rule of law and democracy, tends to encourage the recurrence of such crimes and requires resolute action and cooperation for its eradication,

Welcoming all the regional initiatives being undertaken to implement the Durban commitments, and in this context expressing its appreciation to the Governments of Mexico, Kenya, the Czech Republic and Belgium for hosting the regional expert seminars with a view to the implementation of the Durban Declaration and Programme of Action within their respective regions, and encouraging the remaining region to take the necessary action in this regard,

Welcoming also the determination by the United Nations High Commissioner for Human Rights to profile and increase the visibility of the struggle against racism, racial discrimination, xenophobia and related intolerance and her intention to make this a cross-cutting issue in the activities and programmes of her Office,

I. Basic general principles

1. *Acknowledges* that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid or slavery is permitted, as defined in the obligations under the relevant human rights instruments;

2. *Expresses its profound concern* about and its unequivocal condemnation of all forms of racism and racial discrimination, including related acts of racially motivated violence, xenophobia and intolerance, as well as propaganda activities and organizations that attempt to justify or promote racism, racial discrimination, xenophobia and related intolerance in any form;

3. *Stresses* that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling;

⁵ Resolution 2106 A (XX), annex.

4. *Recognizes* that States should implement and enforce appropriate and effective legislative, judicial, regulatory and administrative measures to prevent and protect against acts of racism, racial discrimination, xenophobia and related intolerance, thereby contributing to the prevention of human rights violations;

5. *Emphasizes* that it is the responsibility of States to adopt effective measures to combat criminal acts motivated by racism, racial discrimination, xenophobia and related intolerance, including measures to ensure that such motivations are considered an aggravating factor for the purposes of sentencing to prevent those crimes from going unpunished and to ensure the rule of law;

6. *Urges* all States to review and, where necessary, revise their immigration laws, policies and practices so that they are free of racial discrimination and compatible with their obligations under international human rights instruments;

7. *Condemns* the misuse of print, audio-visual and electronic media and new communication technologies, including the Internet, to incite violence motivated by racial hatred, and calls upon States to take all necessary measures to combat this form of racism in accordance with the commitments that they have undertaken under the Durban Declaration and Programme of Action,³ in particular paragraph 147 of the Programme of Action, in accordance with existing international and regional standards of freedom of expression and taking all necessary measures to guarantee the right of freedom of opinion and expression;

8. *Encourages* all States to include in their educational curricula and social programmes at all levels, as appropriate, knowledge of and tolerance and respect for foreign cultures, peoples and countries;

9. *Stresses* the responsibility of States to mainstream a gender perspective in the design and development of prevention, education and protection measures aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at all levels, to ensure that they effectively target the distinct situations of women and men;

II. International Convention on the Elimination of All Forms of Racial Discrimination

10. *Reiterates* the call made by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in paragraph 75 of the Durban Programme of Action to achieve universal ratification of the International Convention on the Elimination of All Forms of Racial Discrimination⁵ by 2005 and for all States to consider making the declaration envisaged under article 14 of the Convention, and endorses the concern expressed by the Commission on Human Rights in its resolution 2004/88 to the effect that at the current pace, with 170 ratifications and only 45 declarations, the deadline of 2005 for universal ratification decided by the World Conference will, regrettably, not be realized;

11. *Urges*, in that context, the Office of the United Nations High Commissioner for Human Rights to maintain and issue regular updates on its web site indicating a list of countries that have not yet ratified the Convention, and to encourage such countries to demonstrate their practical commitment to meet the deadline for universal ratification as decided upon by the Durban Conference;

12. *Invites* States parties to the Convention to ratify the amendment to article 8 of the Convention, on the financing of the Committee on the Elimination of Racial Discrimination, and calls for adequate additional resources from the United Nations regular budget to enable the Committee to discharge its mandate fully;

13. *Urges* all States parties to the Convention to intensify their efforts to implement the obligations that they have accepted under article 4 of the Convention, with due regard to the principles of the Universal Declaration of Human Rights⁶ and article 5 of the Convention;

14. *Notes* that the Committee on the Elimination of Racial Discrimination holds that the prohibition of the dissemination of ideas based on racial superiority or racial hatred is compatible with the right to freedom of opinion and expression as outlined in article 19 of the Universal Declaration of Human Rights and in article 5 of the Convention;

15. *Welcomes* the emphasis placed by the Committee on the Elimination of Racial Discrimination on the importance of follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the measures recommended to strengthen the implementation of the Convention as well as the functioning of the Committee;

III. Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

16. *Emphasizes* that the basic responsibility for effectively combating racism, racial discrimination, xenophobia and related intolerance lies with States, and to this end stresses that States have the primary responsibility to ensure full and effective implementation of all commitments and recommendations contained in the Durban Declaration and Programme of Action;

17. *Also emphasizes*, in that context, the fundamental and complementary role of the national human rights institutions, regional bodies or centres and civil society, working jointly with States towards the achievement of the objectives of the Durban Declaration and Programme of Action;

18. *Calls upon* States to elaborate action plans, in consultation with national human rights institutions, other institutions created by law to combat racism, and civil society, and to provide the United Nations High Commissioner for Human Rights with such action plans and other relevant materials on measures taken to implement the provisions of the Durban Declaration and Programme of Action;

19. *Calls upon* all States to formulate and implement without delay, at the national, regional and international levels, policies and plans of action to combat racism, racial discrimination, xenophobia and related intolerance, including their gender-based manifestations;

20. *Urges* States to support the activities of existing regional bodies or centres that combat racism, racial discrimination, xenophobia and related intolerance in their respective regions, and recommends the establishment of such bodies or centres in all regions where they do not exist;

⁶ Resolution 217 A (III).

21. *Recognizes* the fundamental role of civil society in the fight against racism, racial discrimination, xenophobia and related intolerance, in particular in assisting States to develop regulations and strategies, in taking measures and action against such forms of discrimination and through follow-up implementation;

22. *Emphasizes* that, in accordance with the Durban Declaration and Programme of Action, States have a shared responsibility, at the international level and within the framework of the United Nations system, to determine modalities for the overall review of the implementation of the Declaration and Programme of Action;

23. *Decides* that the General Assembly, through its role in policy formulation, the Economic and Social Council, through its role in overall guidance and coordination, in accordance with their respective roles under the Charter of the United Nations and Assembly resolution 50/227 of 24 May 1996, and the Commission on Human Rights shall constitute a three-tiered intergovernmental process for the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action;

24. *Stresses and reaffirms* its role as the highest intergovernmental mechanism for the formulation and appraisal of policy on matters related to the economic, social and related fields, in accordance with Chapter IX of the Charter, including in the comprehensive implementation of and follow-up to the goals and targets set at all the major United Nations conferences, summits and special sessions;

25. *Acknowledges* that the outcome of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance is on an equal footing with those of all the major United Nations conferences, summits and special sessions in the human rights and social fields;

26. *Decides* that the Economic and Social Council shall oversee system-wide coordination of the implementation of the Durban Declaration and Programme of Action;

27. *Also decides* that the Commission on Human Rights, as a functional commission of the Economic and Social Council, shall have a central role in the monitoring of the implementation of the Durban Declaration and Programme of Action within the United Nations system and in advising the Council thereon;

28. *Expresses its appreciation* for the continuing work of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action and the Working Group of Experts on People of African Descent, and looks forward to the consideration of the outcomes of their third sessions by the Commission on Human Rights at its sixty-first session;

29. *Acknowledges* that the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001, which was the third World Conference against racism, was significantly different from the previous two conferences, as evidenced by the inclusion in its title of two important components relating to contemporary forms of racism, namely, xenophobia and related intolerance;

30. *Welcomes* the work of the Committee on the Elimination of Racial Discrimination applying the International Convention on the Elimination of All

Forms of Racial Discrimination to the new and contemporary forms of racism and racial discrimination;

31. *Underlines* the importance of the elaboration of complementary standards with a view to strengthening and updating international instruments against racism, racial discrimination, xenophobia and related intolerance, taking into account issues discussed during the previous sessions of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, as well as issues identified by the high-level seminar to be convened during the next session of the Working Group;

32. *Underlines also* the importance of considering progress made in the implementation of the provisions of the Durban Declaration and Programme of Action related to media and racism, including the use of the Internet, with the participation of all stakeholders, inter alia, States, the World Summit on the Information Society, international and regional organizations, non-governmental organizations, the private sector and the media;

33. *Takes note* of the recommendations of the Working Group, in that context, to request the Office of the United Nations High Commissioner for Human Rights to convene a high-level seminar, the format of which should be agreed among Member States, assisted by the Office of the High Commissioner, which could include, but would not necessarily be limited to, a core group of ministers responsible for human rights and/or equivalent participants from all regions as panellists;

34. *Strongly recommends* that no intersessional meetings of the working groups of the Commission on Human Rights in follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the implementation of the Durban Declaration and Programme of Action shall be scheduled in a manner that clashes or overlaps with the sessions of the General Assembly, and in this regard calls upon the Commission on Human Rights to address this issue and to ensure that the future sessions of the Working Group of Experts on People of African Descent are scheduled to precede those of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action;

35. *Requests* the Secretary-General to reflect in his report to the General Assembly at its sixty-first session on the follow-up to the World Conference the outcome of the high-level seminar;

36. *Acknowledges* the centrality of resource mobilization, effective global partnership and international cooperation in the context of paragraphs 157 and 158 of the Durban Programme of Action for the successful realization of commitments undertaken at the World Conference, and to this end emphasizes the central role to be played by the group of independent eminent experts in mobilizing the necessary political will required for the successful implementation of the Durban Declaration and Programme of Action;

37. *Requests* the Secretary-General to provide the necessary resources for the effective fulfilment of the mandates of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the Working Group of Experts on People of African Descent and the group of

independent eminent experts on the implementation of the Durban Declaration and Programme of Action;

38. *Condemns* the resurgence of xenophobia, and underlines the fact that while anchoring human rights in legal instruments is a fundamental way of expressing their universality, it is no longer capable of eliminating the underlying causes of discriminatory culture and mentalities, and that action on human rights must henceforth include discussion of the deep cultural roots of racism;

39. *Expresses its concern* at the increasing incidence of racism in various sporting events, while noting with appreciation the efforts made by some sporting governing bodies to combat racism;

40. *Invites* Member States to adopt measures to counter the dissemination of discriminatory, racist and xenophobic messages on the Internet, in accordance with paragraphs 144 to 147 of the Durban Programme of Action, and to promote a positive use of the Internet to foster social harmony and to combat racism;

41. *Requests* the Office of the United Nations High Commissioner for Human Rights to convene the second meeting of the group of independent eminent experts before the sixty-first session of the Commission on Human Rights to produce a concrete programme of action related to their mandate, based on the core values for racial equality and dignity as elaborated in the outcome document of their first meeting, held from 16 to 18 September 2003;

IV. Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and follow-up to his visits

42. *Expresses its full support and appreciation* for the work of the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, and encourages its continuation;

43. *Reiterates* its call to all Member States, intergovernmental organizations, relevant organizations of the United Nations and non-governmental organizations to cooperate fully with the Special Rapporteur;

44. *Requests* the Special Rapporteur to continue his exchange of views with Member States and relevant mechanisms and treaty bodies within the United Nations system in order to further enhance their effectiveness and mutual cooperation;

45. *Recognizes with deep concern* the increase in anti-Semitism, Christianophobia and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Arab, Christian, Jewish and Muslim communities, communities of people of African descent, communities of people of Asian descent and other communities;

46. *Requests* the Special Rapporteur to collect information from all concerned, to respond effectively to reliable information that becomes available to him, to follow up on communications and country visits and to seek the views and comments of Governments and reflect them, as appropriate, in his reports;

47. *Calls upon* States to cooperate with the Special Rapporteur and to give serious consideration to his requests to visit their countries so as to enable him to fulfil his mandate fully and effectively;

48. *Encourages* closer collaboration between the Special Rapporteur and the Office of the United Nations High Commissioner for Human Rights, in particular the Anti-Discrimination Unit;

49. *Urges* the United Nations High Commissioner for Human Rights to provide States, at their request, with advisory services and technical assistance to enable them to implement fully the recommendations of the Special Rapporteur;

50. *Requests* the Secretary-General to provide the Special Rapporteur with all the necessary human and financial assistance to carry out his mandate efficiently, effectively and expeditiously and to enable him to submit an interim report to the General Assembly at its sixtieth session;

51. *Takes note* of the recommendations contained in the interim report of the Special Rapporteur,⁷ and encourages the continuation of his work;

52. *Urges* Member States to consider implementing the recommendations contained in the reports of the Special Rapporteur, and invites other relevant stakeholders to implement those recommendations;

V. General

53. *Requests* the Secretary-General to submit a report on the implementation of the present resolution to the General Assembly at its sixtieth session;

54. *Decides* to remain seized of this important matter under the item entitled "Elimination of racism and racial discrimination" at its sixtieth session.

⁷ See A/59/329.

24. The Third Committee also recommends to the General Assembly the adoption of the following draft decision:

Report of the Secretary-General under agenda item 103

The General Assembly takes note of the report of the Secretary-General on global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action.¹

¹ A/59/375.



General Assembly

Distr.: General
6 December 2004
English
Original: Spanish

Fifty-ninth session
Agenda item 104

Right of peoples to self-determination

Report of the Third Committee

Rapporteur: Mr. Carlos Enrique **García González** (El Salvador)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled "Right of peoples to self-determination" and to allocate it to the Third Committee.

2. The Committee held a general discussion on agenda item 104 jointly with item 103 at its 35th, 36th and 38th meetings, on 3, 4 and 8 November, and considered proposals and took action on item 104 at its 43rd to 45th, 49th, 51st and 52nd meetings, from 15 to 17 and on 19 and 23 November 2004. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/59/SR.35, 36, 38, 43-45, 49, 51 and 52).

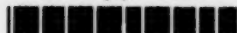
3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the right of peoples to self-determination (A/59/376);

(b) Note by the Secretary-General transmitting a report on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (A/59/191);

(c) Letter dated 16 March 2004 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General and the President of the Security Council (A/59/66-S/2004/219);

(d) Letter dated 1 October 2004 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General, transmitting the final communiqué of the annual coordination meeting of Ministers for Foreign



Affairs of the States members of the Organization of the Islamic Conference (A/59/425-S/2004/808);

(e) Identical letters dated 8 October 2004 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council (A/59/427-S/2004/806).

4. At the 35th meeting, on 3 November, the Director of the New York Office of the United Nations High Commissioner for Human Rights made an introductory statement (see A/C.3/59/SR.35).

5. At the same meeting, the Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination made an introductory statement. The Committee engaged in a question-and-answer session with the Special Rapporteur, in which the representative of Cuba spoke (see A/C.3/59/SR.35).

II. Consideration of proposals

A. Draft resolution A/C.3/59/L.68

6. At the 44th meeting, on 16 November, the representative of Cuba, on behalf of Algeria, Angola, Burundi, China, the Comoros, Costa Rica, Cuba, the Democratic Republic of the Congo, the Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Guinea-Bissau, India, the Islamic Republic of Iran, the Lao People's Democratic Republic, Lesotho, the Libyan Arab Jamahiriya, Madagascar, Malawi, Myanmar, Namibia, Nigeria, Pakistan, Peru, the Russian Federation, the Sudan, the Syrian Arab Republic, Togo, the Bolivarian Republic of Venezuela, Viet Nam, Zambia and Zimbabwe, introduced a draft resolution (A/C.3/59/L.68) entitled "Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination". Subsequently, Benin, Botswana, Cambodia, the Dominican Republic, Equatorial Guinea, the Gambia, Kenya, Sierra Leone, Somalia, Swaziland and the United Republic of Tanzania joined in sponsoring the draft resolution.

7. At the same meeting, the representative of Chile made a statement (see A/C.3/59/SR.44).

8. At the 49th meeting, on 19 November, the Secretary read out a statement regarding financial provisions relating to the draft resolution (see A/C.3/59/SR.49).

9. Also at the 49th meeting, the representative of Cuba made a statement (*ibid.*).

10. At the same meeting, the Committee adopted draft resolution A/C.3/59/L.68 by a recorded vote of 115 to 45, with 10 abstentions (see para. 20, draft resolution I). The voting was as follows:

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belarus, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Cuba,

Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Netherlands, Norway, Palau, Poland, Portugal, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Australia, Kazakhstan, Liechtenstein, New Zealand, Republic of Korea, Republic of Moldova, San Marino, Switzerland, Ukraine, Uzbekistan.

11. Before the vote, statements were made by the representatives of the United States of America and the Netherlands (on behalf of the European Union); after the adoption of the draft resolution, the representative of Argentina made a statement in explanation of vote. The representative of Barbados also made a statement (see A/C.3/59/SR.49).

B. Draft resolution A/C.3/59/L.70 and Rev.1

12. At the 43rd meeting, on 15 November, the representative of Egypt, on behalf of Algeria, Bahrain, Bangladesh, Belize, Brunei Darussalam, China, the Comoros, Cuba, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Guinea, Indonesia, Iraq, Jordan, Kuwait, the Lao People's Democratic Republic, Lebanon, the Libyan Arab Jamahiriya, Malaysia, Mali, Malta, Mauritania, Morocco, Namibia, Oman, Pakistan, Qatar, Saint Lucia, Saudi Arabia, Senegal, Somalia, South Africa, the Sudan, Timor-Leste, Tunisia, the United Arab Emirates, Viet Nam, Yemen and Palestine, introduced a draft resolution (A/C.3/59/L.70) entitled "The right of the Palestinian people to self-determination". Subsequently, the Democratic People's Republic of Korea, Ecuador, Guinea-Bissau, Nigeria and Zimbabwe joined in sponsoring the draft resolution, which read as follows:

"The General Assembly,

"Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

"Recalling in this regard its resolution 2625 (XXV) of 24 October 1970, entitled 'Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations',

"Bearing in mind the International Covenants on Human Rights, the Universal Declaration of Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,

"Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,

"Recalling also the United Nations Millennium Declaration,

"Taking into account the Advisory Opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, issued on 9 July 2004, and noting in particular the determination of the Court that the 'right of peoples to self-determination is today a right erga omnes',

"Concerned by the fact that, as concluded by the Court in its Advisory Opinion, the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

"Expressing the urgent need for the resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a final settlement between the Palestinian and Israeli sides,

"Recalling its resolution 58/292 of 6 May 2004,

"Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

"1. Reaffirms the right of the Palestinian people to self-determination, including the right to their independent State of Palestine;

"2. Urges all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination."

13. At its 52nd meeting, on 23 November, the Committee had before it a revised draft resolution (A/C.3/59/L.70/Rev.1) submitted by Algeria, Andorra, Armenia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Bolivia, Botswana, Brunei Darussalam, Burkina Faso, Cape Verde, China, the Comoros, the Congo, Cuba, Cyprus, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, Djibouti, Ecuador, Egypt, Eritrea, Estonia, Finland, France, the

Gambia, Greece, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iraq, Ireland, Jordan, Kenya, Kuwait, the Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, the Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritania, Monaco, Morocco, Namibia, the Netherlands, the Niger, Nigeria, Norway, Oman, Pakistan, Poland, Portugal, Qatar, Romania, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Slovakia, Slovenia, Somalia, South Africa, Spain, the Sudan, Swaziland, Sweden, Timor-Leste, Tunisia, Turkey, the United Arab Emirates, the United Republic of Tanzania, Viet Nam, Yemen, Zambia, Zimbabwe and Palestine. Subsequently, Afghanistan, Albania, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, the Central African Republic, Grenada, Iceland, Liberia, Madagascar, Switzerland, Ukraine and the Bolivarian Republic of Venezuela joined in sponsoring the revised draft resolution.

14. At the same meeting, statements were made by the representatives of Egypt, the Netherlands (on behalf of the European Union) and the Bolivarian Republic of Venezuela (see A/C.3/59/SR.52).

15. Also at the 52nd meeting, the Committee adopted draft resolution A/C.3/59/L.70/Rev.1 by a recorded vote of 169 to 5, with 4 abstentions (see para. 20, draft resolution II). The voting was as follows:¹

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia and Montenegro, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates,

¹ The delegation of Mali subsequently indicated that, had it been present, it would have voted in favour.

United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Israel, Marshall Islands, Micronesia (Federated States of), Palau, United States of America.

Abstaining:

Australia, Honduras, Papua New Guinea, Tuvalu.

16. After the adoption of the draft resolution, statements in explanation of vote were made by the representatives of Israel, Australia, Canada and Argentina. The observer of Palestine also made a statement (see A/C.3/59/SR.52).

C. Draft resolution A/C.3/59/L.75

17. At the 45th meeting, on 17 November, the representative of Pakistan, on behalf of Algeria, Azerbaijan, Bangladesh, Burkina Faso, Egypt, Eritrea, the Islamic Republic of Iran, Kuwait, the Libyan Arab Jamahiriya, Malaysia, the Niger, Nigeria, Pakistan and Qatar, introduced a draft resolution (A/C.3/59/L.75) entitled "Universal realization of the right of peoples to self-determination". Subsequently, Armenia, Benin, Bahrain, Brunei Darussalam, Burkina Faso, Cameroon, Jordan, Oman, Saudi Arabia, Singapore, Somalia, Thailand and the United Arab Emirates joined in sponsoring the draft resolution, and Nigeria withdrew from the list of sponsors.

18. At the 51st meeting, on 23 November, following a statement by the representative of Pakistan (see A/C.3/59/SR.51), the Committee adopted draft resolution A/C.3/59/L.75 without a vote (see para. 20, draft resolution III).

19. After the adoption of the draft resolution, statements were made by the representatives of Algeria, Argentina and the Netherlands (on behalf of the European Union) (ibid.).

III. Recommendations of the Third Committee

20. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination

The General Assembly,

Recalling its resolution 58/162 of 22 December 2003, and taking note of Commission on Human Rights resolution 2004/5 of 8 April 2004,¹

Recalling also all of its relevant resolutions, in which, inter alia, it condemned any State that permitted or tolerated the recruitment, financing, training, assembly, transit and use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries, or of fighting against national liberation movements, and recalling further the relevant resolutions and international instruments adopted by the General Assembly, the Security Council, the Economic and Social Council and the Organization of African Unity, inter alia, the Organization of African Unity Convention for the elimination of mercenarism in Africa,² as well as the African Union,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the principles of sovereign equality, political independence, the territorial integrity of States, the self-determination of peoples, the non-use of force or of the threat of use of force in international relations and non-interference in affairs within the domestic jurisdiction of States,

Reaffirming also that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development, and that every State has the duty to respect this right in accordance with the provisions of the Charter,

Reaffirming further the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,³

Alarmed and concerned at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States,

Deeply concerned at the loss of life, the substantial damage to property and the negative effects on the policy and economies of affected countries resulting from criminal mercenary activities,

¹ See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

² United Nations, *Treaty Series*, vol. 1490, No. 25573.

³ Resolution 2625 (XXV), annex.

Extremely alarmed and concerned about recent mercenary activities in Africa and the threat they pose to the integrity of and respect for the constitutional order of those countries,

Convinced that, notwithstanding the way in which they are used or the form that they take to acquire some semblance of legitimacy, mercenaries or mercenary-related activities are a threat to peace, security and the self-determination of peoples and an obstacle to the enjoyment of human rights by peoples,

1. *Takes note* of the brief report prepared by the Office of the United Nations High Commissioner for Human Rights on the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination;⁴

2. *Welcomes* the appointment of Shaista Shameem as Special Rapporteur of the Commission on Human Rights on the question of the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination, and encourages her to continue and further advance the valuable work done and the important contributions made by Enrique Bernales Ballesteros during sixteen years in the discharge of his mandate;

3. *Reaffirms* that the use of mercenaries and their recruitment, financing and training are causes for grave concern to all States and violate the purposes and principles enshrined in the Charter of the United Nations;

4. *Recognizes* that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market;

5. *Urges* all States to take the necessary steps and to exercise the utmost vigilance against the menace posed by the activities of mercenaries and to take legislative measures to ensure that their territories and other territories under their control, as well as their nationals, are not used for the recruitment, assembly, financing, training and transit of mercenaries for the planning of activities designed to impede the right of peoples to self-determination, to destabilize or overthrow the Government of any State or to dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the right of peoples to self-determination;

6. *Requests* all States to exercise the utmost vigilance against any kind of recruitment, training, hiring or financing of mercenaries by private companies offering international military consultancy and security services, as well as to impose a specific ban on such companies intervening in armed conflicts or actions to destabilize constitutional regimes;

7. *Welcomes* the entry into force of the International Convention against the Recruitment, Use, Financing and Training of Mercenaries,⁵ and calls upon all States that have not yet done so to consider taking the necessary action to accede to or ratify the Convention;

8. *Welcomes also* the cooperation extended by those countries that have received visits from the Special Rapporteur and the adoption by some States of

⁴ See A/59/191.

⁵ Resolution 44/34, annex.

national legislation that restricts the recruitment, assembly, financing, training and transit of mercenaries;

9. *Condemns* recent mercenary activities in Africa and commends the African Governments on their collaboration in thwarting these illegal actions, which posed a threat to the integrity of and respect for the constitutional order of these countries and the exercise of the right to self-determination of their peoples;

10. *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition, if so requested, in accordance with domestic law and applicable bilateral or international treaties;

11. *Condemns* any form of impunity granted to perpetrators of mercenary activities and to those responsible for the use, recruitment, financing and training of mercenaries, and urges all States, in accordance with their obligations under international law, to bring them, without distinction, to justice;

12. *Requests* the new Special Rapporteur on mercenaries to circulate to States and consult with them on the new proposal for a legal definition of a mercenary drafted by the former Special Rapporteur⁶ and to report her findings to the Commission on Human Rights and the General Assembly;

13. *Requests* the Office of the United Nations High Commissioner for Human Rights, as a matter of priority, to publicize the adverse effects of the activities of mercenaries on the right of peoples to self-determination and, when requested and where necessary, to render advisory services to States that are affected by those activities;

14. *Also requests* the Office of the United Nations High Commissioner for Human Rights to convene a third meeting of experts on traditional and new forms of mercenary activities as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, respecting the main objectives defined in paragraph 16 of Commission on Human Rights resolution 2004/5 of 8 April 2004;¹

15. *Requests* the Special Rapporteur to continue to take into account, in the discharge of her mandate, the fact that mercenary activities continue to occur in many parts of the world and are taking on new forms, manifestations and modalities, and, in this regard, requests her to pay particular attention to the impact of the activities of private companies offering military assistance, consultancy and security services on the international market on the exercise of the right of peoples to self-determination;

16. *Urges* all States to cooperate fully with the Special Rapporteur in the fulfilment of her mandate;

17. *Requests* the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Special Rapporteur with all the necessary assistance and support for the fulfilment of her mandate, both professional and financial, including through the promotion of cooperation between the Special Rapporteur and other components of the United Nations system that deal with countering mercenary-related activities;

⁶ See E/CN.4/2004/15, para. 47.

18. *Requests* the Special Rapporteur to consult States and intergovernmental and non-governmental organizations in the implementation of the present resolution and to report, with specific recommendations, to the General Assembly at its sixtieth session her findings on the use of mercenaries to undermine the right of peoples to self-determination;

19. *Decides* to consider at its sixtieth session the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination under the item entitled "Right of peoples to self-determination".

Draft resolution II

The right of the Palestinian people to self-determination

The General Assembly,

Aware that the development of friendly relations among nations, based on respect for the principle of equal rights and self-determination of peoples, is among the purposes and principles of the United Nations, as defined in the Charter,

Recalling in this regard its resolution 2625 (XXV) of 24 October 1970, entitled "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations",

Bearing in mind the International Covenants on Human Rights,¹ the Universal Declaration of Human Rights,² the Declaration on the Granting of Independence to Colonial Countries and Peoples³ and the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights on 25 June 1993,⁴

Recalling the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations,⁵

Recalling also the United Nations Millennium Declaration,⁶

Recalling further the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,⁷ and noting in particular the reply of the Court, including on the right of peoples to self-determination, which is a right *erga omnes*,

Recalling the conclusion of the Court, in its advisory opinion of 9 July 2004, that the construction of the wall by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, along with measures previously taken, severely impedes the right of the Palestinian people to self-determination,

Expressing the urgent need for the resumption of negotiations within the Middle East peace process on its agreed basis and for the speedy achievement of a final settlement between the Palestinian and Israeli sides,

Recalling its resolution 58/292 of 6 May 2004,

Affirming the right of all States in the region to live in peace within secure and internationally recognized borders,

1. *Reaffirms* the right of the Palestinian people to self-determination, including the right to their independent State of Palestine;

2. *Urges* all States and the specialized agencies and organizations of the United Nations system to continue to support and assist the Palestinian people in the early realization of their right to self-determination.

¹ Resolution 2200 A (XXI), annex.

² Resolution 217 A (III).

³ Resolution 1514 (XV).

⁴ A/CONF.157/24 (Part I), chap. III.

⁵ See resolution 50/6.

⁶ See resolution 55/2.

⁷ See A/ES-10/273 and Corr.1.

Draft resolution III

Universal realization of the right of peoples to self-determination

The General Assembly,

Reaffirming the importance, for the effective guarantee and observance of human rights, of the universal realization of the right of peoples to self-determination enshrined in the Charter of the United Nations and embodied in the International Covenants on Human Rights,¹ as well as in the Declaration on the Granting of Independence to Colonial Countries and Peoples contained in General Assembly resolution 1514 (XV) of 14 December 1960,

Welcoming the progressive exercise of the right to self-determination by peoples under colonial, foreign or alien occupation and their emergence into sovereign statehood and independence,

Deeply concerned at the continuation of acts or threats of foreign military intervention and occupation that are threatening to suppress, or have already suppressed, the right to self-determination of peoples and nations,

Expressing grave concern that, as a consequence of the persistence of such actions, millions of people have been and are being uprooted from their homes as refugees and displaced persons, and emphasizing the urgent need for concerted international action to alleviate their condition,

Recalling the relevant resolutions regarding the violation of the right of peoples to self-determination and other human rights as a result of foreign military intervention, aggression and occupation, adopted by the Commission on Human Rights at its sixtieth² and previous sessions,

Reaffirming its previous resolutions on the universal realization of the right of peoples to self-determination, including resolution 58/161 of 22 December 2003,

Reaffirming also its resolution 55/2 of 8 September 2000, containing the United Nations Millennium Declaration, which, inter alia, upholds the right to self-determination of peoples under colonial domination and foreign occupation,

Taking note of the report of the Secretary-General on the right of peoples to self-determination,³

1. *Reaffirms* that the universal realization of the right of all peoples, including those under colonial, foreign and alien domination, to self-determination is a fundamental condition for the effective guarantee and observance of human rights and for the preservation and promotion of such rights;

2. *Declares its firm opposition* to acts of foreign military intervention, aggression and occupation, since these have resulted in the suppression of the right of peoples to self-determination and other human rights in certain parts of the world;

3. *Calls upon* those States responsible to cease immediately their military intervention in and occupation of foreign countries and territories and all acts of

¹ Resolution 2200 A (XXI), annex.

² See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)* chap. II, sect. A.

³ A/59/376.

repression, discrimination, exploitation and maltreatment, in particular the brutal and inhuman methods reportedly employed for the execution of those acts against the peoples concerned;

4. *Deplores* the plight of millions of refugees and displaced persons who have been uprooted as a result of the aforementioned acts, and reaffirms their right to return to their homes voluntarily in safety and honour;

5. *Requests* the Commission on Human Rights to continue to give special attention to the violation of human rights, especially the right to self-determination, resulting from foreign military intervention, aggression or occupation;

6. *Requests* the Secretary-General to report on this question to the General Assembly at its sixtieth session under the item entitled "Right of peoples to self-determination".



General Assembly

Distr.: General
8 December 2004
English
Original: Spanish

Fifty-ninth session
Agenda item 105

Human rights questions

Report of the Third Committee*

Rapporteur: Mr. Carlos Enrique García González (El Salvador)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session the item entitled:

“Human rights questions:

“(a) Implementation of human rights instruments;

“(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms;

“(c) Human rights situations and reports of special rapporteurs and representatives;

“(d) Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action;

“(e) Report of the United Nations High Commissioner for Human Rights”

and to allocate it to the Third Committee.

2. An account of the Third Committee’s consideration of the item is given in the addenda to the present report.

3. For its consideration of the item, the Committee had before it the following documents:

* The report of the Committee on this item will be issued in six parts, under the symbol A/59/503 and Add.1-5.



Item 105**Human rights questions**

Letter dated 10 August 2004 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General (A/59/225)

Letter dated 21 September 2004 from the Permanent Representative of Cuba to the United Nations addressed to the Secretary-General (A/59/371)

Letter dated 1 October 2004 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General (A/59/425-S/2004/808)

Letter dated 27 October 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Secretary-General (A/C.3/59/4)

Letter dated 1 November 2004 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/C.3/59/6)

Letter dated 1 November 2004 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/C.3/59/7)

Item 105 (a)**Implementation of human rights instruments**

Report of the Committee against Torture on its thirty-first and thirty-second sessions¹

Report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families on its first session²

Report of the Secretary-General on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/59/306)

Report of the Secretary-General on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights (A/59/308)

Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery (A/59/309)

Report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (A/59/310)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment (A/59/324)

Note by the Secretary-General transmitting the report of the chairpersons of the human rights treaty bodies on their sixteenth meeting (A/59/254)

Note by the Secretariat regarding his annual report on the activities of the United Nations Voluntary Fund for Victims of Torture (A/59/353)

¹ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 44 (A/59/44).*

² *Ibid.*, Supplement No. 48 (A/59/48).

Letter dated 11 May 2004 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General (A/59/96)

Letter dated 27 October 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Secretary-General (A/C.3/59/4)

Item 105 (b)

Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Report of the Secretary-General on the right to development (A/59/255)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions (A/59/319)

Report of the Secretary-General on globalization and its impact on the full enjoyment of all human rights (A/59/320)

Report of the Secretary-General on regional arrangements for the promotion and protection of human rights (A/59/323)

Report of the Secretary-General on strengthening United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity (A/59/327)

Report of the Secretary-General on the protection of migrants (A/59/328)

Report of the Secretary-General on the question of enforced or involuntary disappearances (A/59/341)

Report of the Secretary-General on strengthening of the rule of law (A/59/402)

Report of the Secretary-General on the Subregional Centre for Human Rights and Democracy in Central Africa (A/59/403)

Report of the Secretary-General on protecting human rights and fundamental freedoms while countering terrorism (A/59/404)

Report of the Secretary-General on the Khmer Rouge trials (A/59/432 and Add.1)

Report of the Secretary-General on human rights and unilateral coercive measures (A/59/436)

Study of the United Nations High Commissioner for Human Rights on the protection of human rights and fundamental freedoms while countering terrorism (A/59/428)

Note by the Secretary-General transmitting the report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities on its fourth session (A/59/360)

Note by the Secretary-General transmitting the interim report prepared by the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief (A/59/366)

Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants (A/59/377)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on the right to food (A/59/385)

Note by the Secretary-General transmitting the report of the Special Representative of the Secretary-General on human rights defenders (A/59/401)

Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/59/422)

Letter dated 11 November 2004 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General (A/C.3/59/9)

Item 105 (c)

Human rights situations and reports of special rapporteurs and representatives

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967 (A/59/256)

Report of the Secretary-General on the situation of human rights in Myanmar (A/59/269)

Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar (A/59/311)

Note by the Secretariat regarding the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic People's Republic of Korea (A/59/316)

Note by the Secretary-General transmitting the report of the United Nations High Commissioner for Human Rights on assistance to Sierra Leone in the field of human rights (A/59/340)

Note by the Secretariat regarding the report of the independent expert on the situation of human rights in Burundi (A/59/352)

Note by the Secretariat regarding the situation of human rights in the Democratic Republic of the Congo (A/59/367)

Note by the Secretary-General transmitting the report of the independent expert on the situation of human rights in Afghanistan (A/59/370)

Note by the Secretariat regarding the report of the independent expert on the situation of human rights in the Democratic Republic of the Congo (A/59/378)

Note by the Secretary-General on the appointment of his Representative on the human rights of internally displaced persons (A/59/389)

Note by the Secretariat regarding the report of the independent expert on the situation of human rights in the Sudan (A/59/413)

Letter dated 25 October 2004 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General (A/C.3/59/3)

Letter dated 27 October 2004 from the Chargé d'affaires a.i. of the Permanent Mission of Italy to the United Nations addressed to the Secretary-General (A/C.3/59/4)

Letter dated 29 October 2004 from the Permanent Representative of Myanmar to the United Nations addressed to the Secretary-General (A/C.3/59/5)

Letter dated 1 November 2004 from the Permanent Representative of Belarus to the United Nations addressed to the Secretary-General (A/C.3/59/8)

Item 105 (d)

Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action

No documents were submitted under this sub-item.

Item 105 (e)

Report of the United Nations High Commissioner for Human Rights

Report of the United Nations High Commissioner for Human Rights³

4. At the 30th meeting, on 29 October 2004, the Special Rapporteur on violence against women, its causes and consequences addressed the Committee. At the 30th and 31st meetings, on 29 October, the Committee engaged in a question-and-answer session with the Special Rapporteur, in which the following delegations took part: Netherlands, Republic of Korea, Guatemala, New Zealand, Canada, Iran (Islamic Republic of), Democratic Republic of the Congo, Estonia, Indonesia and Syrian Arab Republic (see A/C.3/59/SR.30 and 31).

5. Also at the 31st meeting, the Special Rapporteur on trafficking in persons, especially in women and children, addressed the Committee and engaged in a question-and-answer session with the following delegations: United States of America, Thailand, Japan, Netherlands (on behalf of the States Members of the United Nations that are members of the European Union), Philippines, Burkina Faso and India (see A/C.3/59/SR.31).

II. Consideration of a draft decision proposed by the Chairman

6. At its 47th, 53rd and 54th meetings, on 18 and 24 November, on the proposal of the Chairman, the Committee decided to recommend to the General Assembly that it take note of a number of documents considered in connection with the question of human rights (see para. 7).

³ Ibid., *Supplement No. 36* (A/59/36).

III. Recommendation of the Third Committee

7. The Third Committee recommends to the General Assembly the adoption of the following draft decision:

Reports considered by the General Assembly in connection with human rights questions

The General Assembly takes note of the following reports submitted under the item entitled "Human rights questions":

Under sub-item (a):

(a) Report of the Secretary-General on the status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;¹

(b) Report of the Secretary-General on the effective implementation of international instruments on human rights, including reporting obligations under international instruments on human rights;²

(c) Report of the Secretary-General on the status of the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery;³

(d) Report of the Secretary-General on the status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;⁴

(e) Note by the Secretary-General transmitting the report of the chairpersons of the human rights treaty bodies on their sixteenth meeting.⁵

Under sub-item (b):

(a) Report of the Secretary-General on the right to development;⁶

(b) Report of the Secretary-General on the protection of migrants;⁷

(c) Report of the Secretary-General on strengthening of the rule of law;⁸

(d) Report of the Secretary-General on the Subregional Centre for Human Rights and Democracy in Central Africa;⁹

(e) Report of the Secretary-General on Khmer Rouge trials;¹⁰

¹ A/59/306.

² A/59/308.

³ A/59/309.

⁴ A/59/310.

⁵ A/59/254.

⁶ A/59/255.

⁷ A/59/328.

⁸ A/59/402.

⁹ A/59/403.

¹⁰ A/59/432 and Add.1.

(f) Report of the Secretary-General on human rights and unilateral coercive measures;¹¹

(g) Note by the Secretary-General transmitting the interim report prepared by the Special Rapporteur of the Commission on Human Rights on freedom of religion or belief;¹²

(h) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants;¹³

(i) Note by the Secretary-General transmitting the report of the Special Representative of the Secretary-General on human rights defenders;¹⁴

(j) Note by the Secretary-General transmitting the report of the Special Rapporteur of the Commission on Human Rights on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.¹⁵

Under sub-item (c):

(a) Note by the Secretary-General transmitting the interim report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967;¹⁶

(b) Note by the Secretary-General transmitting the report of the United Nations High Commissioner for Human Rights on assistance to Sierra Leone in the field of human rights;¹⁷

(c) Note by the Secretary-General transmitting the report of the independent expert on the situation of human rights in Afghanistan;¹⁸

(d) Oral report of the independent expert on the situation of human rights in the Democratic Republic of the Congo;¹⁹

(e) Oral report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic People's Republic of Korea;¹⁹

(f) Oral report of the independent expert of the Commission on Human Rights on the situation of human rights in the Sudan.²⁰

¹¹ A/59/436.

¹² A/59/366.

¹³ A/59/377.

¹⁴ A/59/401.

¹⁵ A/59/422.

¹⁶ A/59/256.

¹⁷ A/59/340.

¹⁸ A/59/370.

¹⁹ See A/C.3/59/SR.29.

²⁰ See A/C.3/59/SR.30.



General Assembly

Distr.: General
7 December 2004
English
Original: Spanish

Fifty-ninth session
Agenda item 105 (a)

Human rights questions: implementation of human rights instruments

Report of the Third Committee

Rapporteur: Mr. Carlos Enrique **García González** (El Salvador)

I. Introduction

1. At its 2nd plenary meeting, on 17 September 2004, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its fifty-ninth session under the item entitled "Human rights questions", the sub-item entitled "Implementation of human rights instruments" and to allocate it to the Third Committee.
2. The Committee held a general discussion on the sub-item jointly with sub-item 105 (d) at its 23rd, 24th and 26th meetings, on 25, 26 and 27 October 2004, and took action on sub-item (a) at its 34th, 37th, 41st, 44th, 46th and 47th meetings, on 2, 4, 9, 16 and 18 November 2004. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/59/SR.23, 24, 26, 34, 37, 41, 44, 46 and 47).
3. For the documents before the Committee under this sub-item, see A/59/503.
4. At the 23rd meeting, on 25 October, the Director of the New York office of the High Commissioner for Human Rights addressed the Committee (see A/C.3/59/SR.23).
5. At the 26th meeting, on 27 October, the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment made an introductory statement. The Committee then engaged in a question-and-answer session with the Special Rapporteur in which the representatives of the Netherlands (on behalf of the European Union), Switzerland, Canada, Yemen, New Zealand, the United States of America, the Russian Federation, Norway, the Republic of Korea, Costa Rica and Cuba took part (see A/C.3/59/SR.26).



II. Consideration of proposals

A. Draft resolution A/C.3/59/L.31

6. At the 34th meeting, on 2 November, the representative of Mexico, on behalf of Argentina, Azerbaijan, Colombia, Cuba, Ecuador, Egypt, El Salvador, Guatemala, Indonesia, Mexico, Nicaragua, the Niger, Paraguay, Peru, the Philippines, Senegal, Timor-Leste and Uruguay, introduced a draft resolution (A/C.3/59/L.31) entitled "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families".

7. At the 44th meeting, on 16 November, the Committee had before it a statement of the programme budget implications of draft resolution A/C.3/59/L.31, submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly (A/C.3/59/L.63).

8. At the same meeting, the representative of Mexico orally revised the draft resolution as follows:

(a) In the third preambular paragraph, the word "Convention" was replaced by the words "International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families";

(b) In the fifth preambular paragraph, the words "as well as the International Organization for Migration" were added at the end of the paragraph;

(c) In operative paragraph 1, the words "Welcomes the signature or ratification of or accession to the International Convention on the Protection of the Rights of All Migrant Workers and Their Families by additional States" were replaced by the words "Welcomes the increasing number of signatures, ratifications or accessions to the Convention, calls upon States parties to undertake the necessary measures for the implementation of the Convention";

(d) In operative paragraph 4, the words "on the Protection of the Rights of All Migrant Workers and Members of Their Families, making an efficient use of available resources" were added at the end of the paragraph;

(e) In operative paragraph 6, the words "of other human rights committees to improve their methods of work and to avoid any duplication" were replaced by the words "by the other human rights treaty bodies and the Secretary-General aimed at improving the effectiveness of the treaty body system";

(f) In operative paragraph 12, the words "and on the implementation of the present resolution" were inserted after the words "status of the Convention".

9. At the same meeting, Bangladesh, Burkina Faso, Cape Verde, Chile, Ghana, Grenada, Guinea, Guinea-Bissau, Mali, Morocco, Mozambique, Sri Lanka, the Sudan, Tunisia and Yemen joined in sponsoring the draft resolution, as orally revised.

10. Also at its 44th meeting, the Committee adopted draft resolution A/C.3/59/L.31, as orally revised, without a vote (see para. 20, draft resolution I).

B. Draft resolution A/C.3/59/L.32

11. At the 41st meeting, on 10 November, the representative of Cuba, on behalf of Algeria, Angola, Azerbaijan, Bangladesh, Belarus, Cameroon, China, the Congo, Côte d'Ivoire, Cuba, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, Egypt, El Salvador, Eritrea, Ethiopia, Guinea-Bissau, Iran (Islamic Republic of), the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Mauritania, Myanmar, Namibia, Nicaragua, Nigeria, Pakistan, Qatar, the Russian Federation, Rwanda, Saudi Arabia, South Africa, the Sudan, the Syrian Arab Republic, Togo, Tunisia, the United Republic of Tanzania, Viet Nam, Zambia and Zimbabwe, introduced a draft resolution (A/C.3/59/L.32) entitled "Equitable geographical distribution in the membership of the human rights treaty bodies". Subsequently, Benin, Botswana, the Dominican Republic, India, Indonesia, Kenya, Lesotho, Madagascar, Malawi, Mali, Mozambique, Nepal, the Niger, Sierra Leone, Sri Lanka, Suriname and Venezuela (Bolivarian Republic of) joined in sponsoring the draft resolution.

12. At the 47th meeting, on 18 November, the representative of Cuba made a statement with respect to the draft resolution (see A/C.3/59/SR.47).

13. At the same meeting, the Committee adopted draft resolution A/C.3/59/L.32 by a recorded vote of 112 to 51, with 5 abstentions (see para. 20, draft resolution II). The voting was as follows:¹

In favour:

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Botswana, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iran (Islamic Republic of), Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against:

Albania, Andorra, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary,

¹ The representatives of Mali and Papua New Guinea subsequently stated that, had they been present during the voting, they would have voted in favour of the draft resolution.

Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Bolivia, Brazil, Honduras, Paraguay, Ukraine.

14. Before the vote, the representative of the Netherlands made a statement on behalf of the European Union (see A/C.3/59/SR.47).

C. Draft resolution A/C.3/59/L.33 and Rev.1

15. At the 37th meeting, on 4 November, the representative of Denmark, on behalf of Andorra, Argentina, Australia, Austria, Belgium, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Ecuador, El Salvador, Estonia, Finland, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, the Republic of Korea, Romania, San Marino, Senegal, Serbia and Montenegro, Slovakia, Slovenia, South Africa, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of), introduced a draft resolution (A/C.3/59/L.33) entitled "Torture and other cruel, inhuman or degrading treatment or punishment". Subsequently, Bolivia, Bosnia and Herzegovina, the Dominican Republic, Mauritius, Mozambique and Namibia joined in sponsoring the draft resolution, which read as follows:

The General Assembly,

Recalling that the prohibition of torture is a peremptory norm of international law and that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of internal or international disturbance or armed conflict, and that the prohibition of torture is explicitly affirmed in all relevant international instruments,

Recalling also the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

Recalling further the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993 that high priority be given to providing the necessary resources to assist victims of torture and effective remedies for their physical, psychological and social rehabilitation, inter alia, through additional contributions to the United Nations Voluntary Fund for Victims of Torture, and noting with satisfaction the existence of a considerable international network of centres for the rehabilitation of victims of torture,

Commending the persistent efforts by non-governmental organizations to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to give full effect to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Condemns in particular* any action or attempt by States or public officials to legalize or authorize torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and calls upon Governments to eliminate any practices of torture and other cruel, inhuman or degrading treatment or punishment;

3. *Urges* Governments to take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations;

4. *Stresses* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;

5. *Stresses* that all acts of torture must be made offences under domestic criminal law, and emphasizes that acts of torture are serious violations of international humanitarian law and can constitute crimes against humanity and war crimes and that the perpetrators of all acts of torture must be prosecuted and punished;

6. *Stresses also* that States must not punish personnel who are involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

7. *Emphasizes* that States must not expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he/she would be in danger of being subjected to torture and other cruel, inhuman or degrading treatment or punishment;

8. *Stresses* that national legal systems must ensure that victims of torture and cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges Governments to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

9. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

10. *Notes with appreciation* that one hundred and thirty-six States have become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and urges all States that have not yet done so to become parties to the Convention as a matter of priority;

11. *Invites* all States parties to the Convention that have not yet done so to consider making the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20, and urges all States parties to the Convention to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

12. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

13. *Calls upon* States parties to consider as a matter of priority signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 57/199 of 18 December 2002, which provides further measures for use in the fight against and prevention of torture, and notes in this context that ratifications by twenty States parties are required for the Optional Protocol to enter into force;

14. *Welcomes* the work of the Committee against Torture and the report of the Committee, submitted in accordance with article 24 of the Convention;

15. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for this purpose;

16. *Urges* States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports;

17. *Welcomes* the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture, describing the overall trends and developments with regard to his mandate, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture, including their gender-based manifestations, and to consider including information on the

follow-up by Governments to his recommendations, visits and communications, including progress made and problems encountered;

18. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to respond appropriately and expeditiously to his urgent appeals and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations;

19. *Stresses* the need for the continued regular exchange of views among the Committee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, inter alia, by improving their coordination;

20. *Expresses its gratitude and appreciation* to the Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;

21. *Stresses* the importance of the work of the Board of Trustees of the Fund, and appeals to all Governments and organizations to contribute annually to the Fund, preferably by 1 March before the annual meeting of the Board, if possible with a substantial increase in the level of contributions;

22. *Requests* the Secretary-General to transmit to all Governments the appeals of the General Assembly for contributions to the Fund, to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities and to assist the Board of Trustees of the Fund in its appeal for contributions and in its efforts to make better known the existence of the Fund;

23. *Also requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture, commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

24. *Further requests* the Secretary-General to submit to the Commission on Human Rights at its sixty-first session and to the General Assembly at its sixtieth session a report on the status of the Convention and a report on the operations of the Fund;

25. *Calls upon* all Governments, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

26. *Decides* to consider at its sixtieth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the

interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture.

16. At its 46th meeting, on 18 November, the Committee had before it a revised draft resolution, (A/C.3/59/L.33/Rev.1) submitted by the sponsors of draft resolution A/C.3/59/L.33 and Brazil, Canada, France, Lithuania, Malta, Nigeria, Spain and the United States of America. Subsequently, Albania, Angola, Armenia, Bangladesh, Belarus, Benin, Burkina Faso, the Congo, Egypt, Eritrea, Georgia, Ghana, Grenada, Iraq, Japan, Jordan, Kenya, Kyrgyzstan Mali, Micronesia (Federated States of), Monaco, Mongolia, the Niger and the Republic of Moldova joined in sponsoring the revised draft resolution.

17. At the same meeting, the Secretary read out a statement regarding financial provisions relating to the revised draft resolution (see A/C.3/59/SR.46).

18. Also at the 46th meeting, the representative of Denmark made a statement with respect to the revised draft resolution (see A/C.3/59/SR.46).

19. At the same meeting, the Committee adopted draft resolution A/C.3/59/L.33/Rev.1 without a vote (see para. 20, draft resolution III).

III. Recommendations of the Third Committee

20. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The General Assembly,

Guided by the basic instruments regarding the international protection of human rights, in particular the Universal Declaration of Human Rights¹ and other relevant human rights instruments, and reaffirming the obligation of States to promote and protect human rights and fundamental freedoms,

Recalling its resolution 45/158 of 18 December 1990, by which it adopted and opened for signature, ratification and accession the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Recalling also the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 1 July 2003,

Considering that in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993,² all States are urged to guarantee the protection of the human rights of all migrant workers and their families and are invited to consider the possibility of signing and ratifying the Convention at the earliest possible time,

Bearing in mind the principles and norms established within the framework of the International Labour Organization and the importance of the work done in connection with migrant workers and members of their families in other specialized agencies and in various organs of the United Nations, as well as in the International Organization for Migration,

Conscious of the marked increase in migratory movements that has occurred, especially in certain parts of the world,

Deeply concerned at the manifestations of violence, racism, racial discrimination, xenophobia and other forms of intolerance and inhuman and degrading treatment directed against migrants in various parts of the world,

Recognizing the urgent need to make further efforts worldwide to improve the situation and to guarantee respect for the human rights and dignity of all migrant workers and members of their families, and aware of the important contribution of the Convention in this regard,

1. *Welcomes the increasing number of signatures, ratifications or accessions to the Convention on the Protection of the Rights of all Migrant Workers and Their Families, calls upon States parties to undertake the necessary measures for the*

¹ Resolution 217 A (III).

² A/CONF.157/24 (Part I), chap. III.

implementation of the Convention, and takes note of the report of the Secretary-General on the status of the Convention;³

2. *Calls upon* all Member States that have not yet done so to consider urgently signing and ratifying or acceding to the Convention, with the aim of achieving a broader participation by Member States in the Convention;

3. *Welcomes* the establishment of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the report of its first session,⁴ which took place from 1 to 5 March 2004, and takes note of the rules of procedure⁵ adopted by the Committee;

4. *Requests* the Secretary-General to continue providing all the necessary facilities and assistance for the effective functioning of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, making efficient use of available resources;

5. *Invites* the Committee to take into account the work done by other human rights treaty bodies and special procedures of the Commission on Human Rights to protect and promote the human rights of migrant workers, as well as the work of other international forums and other parts of the United Nations system in addressing issues of international migration;

6. *Also invites* the Committee to take into account the efforts by the other human rights treaty bodies and the Secretary-General aimed at improving the effectiveness of the treaty body system;

7. *Calls upon* States parties to the Convention to submit in due time their first periodic report, as requested in article 73 of the Convention;

8. *Invites* States parties to the Convention to consider making the declarations foreseen in articles 76 and 77 of the Convention;

9. *Requests* the Secretary-General to provide all the facilities and assistance necessary for the active promotion of the Convention through the programme of advisory services and technical cooperation in the field of human rights;

10. *Welcomes* the increasing activities undertaken by the organizations and bodies of the United Nations system and intergovernmental and non-governmental organizations to disseminate information on and promote understanding of the importance of the Convention, and invites them to intensify further their efforts in this regard;

11. *Also welcomes* the work of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants in relation to the Convention, and encourages her to persevere in her efforts;

12. *Requests* the Secretary-General to submit an updated report on the status of the Convention and on the implementation of the present resolution to the General Assembly at its sixty-first session.

³ A/59/328.

⁴ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 48 (A/59/48).*

⁵ *Ibid.*, annex IV.

Draft resolution II
Equitable geographical distribution in the membership of the
human rights treaty bodies

The General Assembly,

Recalling its resolution 56/146 of 19 December 2001,

Reaffirming the importance of the goal of universal ratification of the United Nations human rights instruments,

Welcoming the significant increase in the number of ratifications of United Nations human rights instruments, which has especially contributed to their universality,

Reiterating the importance of the effective functioning of treaty bodies established pursuant to United Nations human rights instruments for the full and effective implementation of those instruments,

Recalling that, with regard to the election of the members of the human rights treaty bodies, the Commission on Human Rights and the General Assembly have recognized the importance of giving consideration in their membership to equitable geographical distribution, gender balance and representation of the principal legal systems and of bearing in mind that the members shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights,

Reaffirming the significance of national and regional particularities and various historical, cultural and religious backgrounds, as well as of different political, economic and legal systems,

Recognizing that the United Nations pursues multilingualism as a means of promoting, protecting and preserving diversity of languages and cultures globally and that genuine multilingualism promotes unity in diversity and international understanding,

Recalling also that the Commission on Human Rights and the General Assembly have encouraged States parties to United Nations human rights treaties, individually and through meetings of States parties, to consider how to give better effect, inter alia, to the principle of equitable geographical distribution in the membership of treaty bodies,

Expressing concern at the regional imbalance in the current composition of the membership of some of the human rights treaty bodies,

Noting in particular that the status quo tends to be particularly detrimental to the election of experts from some regional groups,

Convinced that the goal of equitable geographical distribution in the membership of human rights treaty bodies is perfectly compatible and can be fully realized and achieved in harmony with the need to ensure gender balance and the representation of the principal legal systems in those bodies and the high moral character, acknowledged impartiality and recognized competence in the field of human rights of their members,

1. *Encourages* States parties to the United Nations human rights instruments to adopt concrete actions, inter alia, the possible establishment of quota distribution systems by geographical region for the election of the members of the treaty bodies, thereby ensuring the paramount objective of equitable geographical distribution in the membership of those human rights bodies;

2. *Calls upon* the States parties to the United Nations human rights instruments to include, as an agenda item at their forthcoming meetings, a debate on ways and means to ensure equitable geographical distribution in the membership of the human rights treaty bodies, based on the recommendations of the Commission on Human Rights and the Economic and Social Council and the provisions of the present resolution;

3. *Recommends*, when considering the possible establishment of a quota by regions for the election of membership of each treaty body, the introduction of flexible procedures that encompass the following criteria:

(a) Each of the five regional groups established by the General Assembly must be assigned a quota of the membership of each treaty body in equivalent proportion to the number of States parties to the instrument that it represents;

(b) There must be provision for periodic revisions that reflect the relative changes in the geographical distribution of States parties;

(c) Automatic periodic revisions should be envisaged in order to avoid amending the text of the instrument when the quotas are revised.

4. *Stresses* that the process needed to achieve the goal of equitable geographical distribution in the membership of human rights treaty bodies can contribute to raising awareness of the importance of gender balance, the representation of the principal legal systems and the principle that the members of the treaty bodies shall be elected and shall serve in their personal capacity, and shall be of high moral character, acknowledged impartiality and recognized competence in the field of human rights;

5. *Requests* the chairpersons of the human rights treaty bodies to consider at their next meeting the content of the present resolution and to submit, through the United Nations High Commissioner for Human Rights, specific recommendations for the achievement of the goal of equitable geographical distribution in the membership of the human rights treaty bodies;

6. *Requests* the United Nations High Commissioner for Human Rights to submit concrete recommendations on the implementation of the present resolution to the General Assembly at its sixtieth session;

7. *Decides* to continue its consideration of this question at its sixtieth session under the item entitled "Human rights questions: implementation of human rights instruments".

Draft resolution III

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of internal or international disturbance or armed conflict, and that the prohibition of torture is explicitly affirmed in all relevant international instruments,

Recalling also that a number of international, regional and domestic courts, including the International Tribunal for the Former Yugoslavia, have recognized that the prohibition of torture is a peremptory norm of international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹

Recalling the recommendation contained in the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1993² that high priority be given to providing the necessary resources to assist victims of torture and effective remedies for their physical, psychological and social rehabilitation, inter alia, through additional contributions to the United Nations Voluntary Fund for Victims of Torture, and noting with satisfaction the existence of a considerable international network of centres for the rehabilitation of victims of torture,

Commending the persistent efforts by non-governmental organizations to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Condemns in particular* any action or attempt by States or public officials to legalize or authorize torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions, and calls upon Governments to eliminate any practices of torture and other cruel, inhuman or degrading treatment or punishment;

3. *Urges* Governments to take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations;

4. *Stresses* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including

¹ Resolution 39/46, annex.

² A/CONF.157/24 (Part I), chap. III.

the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)³ as a useful tool in efforts to combat torture;

5. *Stresses* that all acts of torture must be made offences under domestic criminal law, and emphasizes that acts of torture are serious violations of international humanitarian law and can constitute crimes against humanity and war crimes and that the perpetrators of all acts of torture must be prosecuted and punished;

6. *Urges* States to ensure that any statement that is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

7. *Stresses* that States must not punish personnel who are involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

8. *Recalls* that States shall not expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture;

9. *Stresses* that national legal systems must ensure that victims of torture and cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges Governments to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

10. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

11. *Notes with appreciation* that one hundred and thirty-eight States have become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹ and urges all States that have not yet done so to become parties to the Convention as a matter of priority;

12. *Invites* all States parties to the Convention that have not yet done so to consider making the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20, and urges all States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

13. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles when submitting reports to the Committee against Torture;

³ Resolution 55/89, annex.

14. *Calls upon* States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted on 18 December 2002 by the General Assembly in its resolution 57/199 and which provides further measures for use in the fight against and prevention of torture, and notes in this context that ratifications by twenty States parties are required for the Optional Protocol to enter into force;

15. *Welcomes* the work of the Committee against Torture and the report of the Committee,⁴ submitted in accordance with article 24 of the Convention;

16. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for this purpose;

17. *Urges* States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports;

18. *Notes with appreciation* the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture⁵ on the overall trends and developments with regard to his mandate, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture, including their gender-based manifestations;

19. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by Governments to his recommendations, visits and communications, including progress made and problems encountered;

20. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to respond appropriately and expeditiously to his urgent appeals and to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries, and urges them to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations;

21. *Stresses* the need for the continued regular exchange of views among the Committee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, inter alia, by improving their coordination;

22. *Expresses* its gratitude and appreciation to the Governments, organizations and individuals that have already contributed to the United Nations Voluntary Fund for Victims of Torture;⁶

⁴ Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 44 (A/59/44).

⁵ A/59/324.

⁶ See A/58/284; see also A/59/353.

23. *Stresses* the importance of the work of the Board of Trustees of the Fund, and appeals to all Governments and organizations to contribute annually to the Fund, preferably by 1 March before the annual meeting of the Board, if possible with a substantial increase in the level of contributions;

24. *Requests* the Secretary-General to transmit to all Governments the appeals of the General Assembly for contributions to the Fund, to continue to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities and to assist the Board of Trustees of the Fund in its appeal for contributions and in its efforts to make better known the existence of the Fund;

25. *Also requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture, commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

26. *Further requests* the Secretary-General to submit to the Commission on Human Rights at its sixty-first session and to the General Assembly at its sixtieth session a report on the status of the Convention and a report on the operations of the Fund;

27. *Calls upon* all Governments, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

28. *Decides* to consider at its sixtieth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the interim report of the Special Rapporteur of the Commission on Human Rights on the question of torture.